

BENCH CARD FOR NEVADA JUDGES

The Supreme Court of Nevada

Certified Court Interpreters' Program



Introduction and Disclaimer

Title VI of the Civil Rights Act of 1964, the Omnibus Crime Control and Safe Streets Act of 1968, and Executive Order 13166 emphasize the provision of competent interpreter services in both, criminal and civil proceedings free of cost to the limited English proficient (LEP) person.

There are a number of questions surrounding the provision of interpreter services in the state courts that are being asked at both the federal and state levels at this time. These questions arise primarily from the U.S. Department of Justice's interpretation of how Title VI of the Civil Rights Act of 1964, the Omnibus Crime Control and Safe Streets Act of 1968, and Executive Order 13166 apply to states that receive any federal funding assistance.

There is no clear statutory guidance or existing case law that fully satisfies these questions, and all judges are encouraged to undertake their own analysis of information in this area and to refer to the letters that Justice Michael L. Douglas sent to all Nevada judges dated August 16, 2011, and Chief Justice Michael A. Cherry on November 7, 2012.

The information provided in the bench card does not constitute legal advice and information contained herein should not be relied upon as providing any specific authority, requirement, or authorization. A wide variety of resources authored by the National Center for State Court, National Association of Judiciary Interpreters and Translators, Council of Language Access Coordinators and its member states and judicial branches have been consulted and used. The Nevada Supreme Court and its officers, employees, or agents shall not be liable for any damages whatsoever arising from or due to the use, misuse, interpretation, application, or reliance upon this publication.

Explain the Role of the Court Interpreter

It is important that the individual who needs an interpreter understands the role of the interpreter. Here are some basic points which may help ensure this understanding. You may instruct the individual, through the interpreter, as follows:

- **An interpreter's role is to listen to what is said in the courtroom in English and subsequently to interpret it accurately and completely into the target language.**
- **The interpreter cannot give advice, make suggestions, or engage in private conversation with the person needing the interpreter.**
- **The person should raise a hand if s/he has a question or does not understand something during the proceeding.**
- **The interpreter can only interpret for one person at a time, so please do not speak or interrupt while someone is testifying or speaking.**
- **The interpreter can only interpret testimony that is spoken, so all responses must be verbal.**

You, as a judge are reminded to speak at a slower but steady pace, and make eye contact occasionally with the interpreter to gauge whether your pace is appropriate. A slower pace is especially important when stating dates, numbers, figures, or highly technical vocabulary.

You may locate the regularly updated list of all Nevada credentialed court interpreters (certified and registered) on the Supreme Court's web page at <http://www.nevadajudiciary.us/index.php/nvcourtintroster>.

Determination of the Language Spoken

If the court needs to determine the language spoken by the limited English proficient individual, the Language Identification Flashcards developed by the U.S. Census Bureau (I SPEAK CARDS) available at http://www.michigan.gov/documents/mdot/mdot_ISpeak_Language_Identification_FlashCards_363416_7.pdf may be consulted. The LEP person can properly identify the language he/she speaks by checking or pointing the specific box. Once this issue has been addressed, a court interpreter may be appointed.

Appointment of an Interpreter

The more complex, difficult, or legally significant assignments should be served by certified interpreters, whenever possible. This decision is left to the discretion of the judge considering the gravity of the offense involved, and the abilities of the person or persons available to interpret. Examples of the complex matters that ought to be served by credentialed interpreters are:

- Capital trials
- Criminal trials where potential penalties include significant terms of incarceration
- Criminal trials with decisions that might be used in the future for enhancement purposes
- Civil trials with highly technical terminology.

For more information, please review the State Court Administrator Guidelines for the Nevada Certified Court Interpreter Program available at <http://www.nevadajudiciary.us/index.php/viewdocumentsandforms/functionstartdown/9410/>.

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Sample Voir Dire to Determine Interpreter Qualifications

Ethical Considerations

- Are you a potential witness in this case?
- Do you know or work for any of the attorneys, parties, or witnesses in this case?
- Have you read and understood the Code of Professional Responsibility for Nevada Court Interpreters (available at <http://www.nevadajudiciary.us/index.php/viewdocumentsandforms/func-startdown/619/>)? Do you agree to abide by that code?
- Have you ever been disciplined for conduct that violates the Code of Professional Responsibility approved by the Nevada Supreme Court, another state judiciary, or any professional interpreters or translators association? If so, why?

Communicative Compatibility

- Have you had an opportunity to speak with the person for whom you will be interpreting?
- Did you have any difficulty understanding everything that the person said?
- Do you speak the same language?
- Does that person have any dialectal or idiomatic peculiarities that you do not understand or which you cannot interpret into English? Are you able to communicate despite these idiosyncrasies?

Knowledge of the Languages and General Education

- How did you learn English?
- Have you formally studied the English language in school or college? If so, please describe.
- Do you need any time to review any documents in this case?
- How did you learn [the foreign language]?
- Have you formally studied [the foreign language] in school or college? If so, please describe.
- What is the highest grade or degree you completed?

Interpreting and Translating Skills

- Have you passed any accreditation or certification exams for interpretation or translation? If so, please describe.
- Are you a member in good standing of any professional associations of interpreters or translators? If so, please identify them.
- Do you attend meetings, conferences, and other gatherings of professional interpreters and translators? If so, please describe how often.
- Have you ever interpreted in Nevada's jurisdiction? If so, please state when and for what types of proceedings?
- Have you ever been disqualified or removed from interpreting in any court or administrative proceedings? If so, why?

If the court is satisfied that the proposed interpreter has the skills and knowledge to perform the duties of court interpreter, the court should make such findings on the record and have the interpreter sworn in open court.

How Do I Determine that a Person Needs Services of an Interpreter?

A court official should presume a need for a foreign language interpreter when a pro se litigant indicates a party or a witness requests an interpreter. If a request for an interpreter is not made, but it appears a party or witness has limited English proficiency, a judge should ask the following questions on the record to assess the need for an interpreter.

Sample Questions to Assess the English Proficiency of a Party or Witness

(Please avoid questions easily answered with "yes" or "no" replies.)

1. Please tell the court your name.
2. How did you come to court today?
3. How did you learn English?
4. Please tell me about your country.
5. Describe what you see in this courtroom.
6. What is the purpose of your court appearance today?
7. In what language do you feel the most comfortable speaking and communicating?
8. You have the right to a court-appointed interpreter free of charge. Would you like the court to provide an interpreter in that language to assist you to communicate and to understand what is being said?

If the person has difficulty answering these simple questions, an interpreter is recommended. Presumably, a person unable to answer these questions is unable to communicate well in high-stress matters involving legal terminology.

Interpreter's Oath

All interpreters should be placed under oath. Placing the interpreter's appearance on the record underscores the importance of adhering to the principles of proper court interpreting. Additionally, when the interpreter states his or her name, it is a good opportunity to inquire whether any party knows the interpreter. This question can eliminate potential conflicts or the appearance of impropriety.

Sample interpreter oath: *"Do you solemnly swear or affirm that you will interpret accurately, completely, and impartially, use your best skills and judgment in accordance with the standards prescribed by law and follow all official guidelines established by this court for legal interpreting or translating, and discharge all of the solemn duties and obligations of legal interpretation and translation?"*

For additional assistance, please contact:

Administrative Office of the Courts, Certified Court Interpreter Program, 200 Lewis Ave., 17th Floor, Las Vegas, NV 89101
(702) 486-9332

<http://www.nevadajudiciary.us/index.php/courtinterpreterprogram>